



**The Deputy Secretary of Energy**

Washington, DC 20585

February 26, 1998

**MEMORANDUM FOR DOE OPERATIONS OFFICE MANAGERS  
DOE FIELD OFFICE MANAGERS AND COUNSEL**

**FROM:** ELIZABETH A. MOLE *ELM*

**SUBJECT:** Work-relatedness of Chronic Beryllium Disease and  
Beryllium Sensitization for Purpose of Workers'  
Compensation Claims

As of January 1, 1998, 105 current and former Department of Energy (DOE) workers have been diagnosed with Chronic Beryllium Disease (CBD) and another 201 workers have become sensitized to beryllium. CBD is a chronic, often debilitating, and sometimes fatal lung condition. Beryllium sensitization is a condition where a person's immune system becomes highly responsive to the presence of beryllium in the body. DOE surveillance programs currently offer periodic lung testing to current and former workers at four sites -- Oak Ridge Y-12 Plant, Rocky Flats, Mound, and Los Alamos. Persons who are diagnosed with CBD or are beryllium sensitized at these and other DOE sites may also be entitled to receive workers' compensation disability and/or medical benefits depending on the extent of their illness and the particular requirements of the individual State's workers' compensation system or of the Federal system governing Federal employees.

There has long been scientific consensus that exposure to airborne beryllium is the one and only cause of CBD. Moreover, because there are a limited number of workplaces that use beryllium, there is a high likelihood that the CBD or beryllium sensitization of employees who worked at DOE facilities that used beryllium was caused by exposure in the DOE facility.

Therefore, in order to facilitate the processing of workers' compensation claims, DOE will adhere to a "presumption of workplace causation" for current and former DOE and contractor employees with CBD or beryllium sensitization who worked at DOE facilities that used beryllium. To the extent allowable by law, DOE field counsel and contractors are not to contest the "work relatedness" for workers' compensation claims of confirmed cases of Chronic Beryllium Disease and, in those jurisdictions that allow such claims, of sensitization to beryllium. This presumption applies to any current or former DOE or contractor worker employed at a location within a DOE facility where beryllium has been used.

This presumption is intended to address only one of the procedural requirements that must be met in order to receive workers' compensation benefits -- i.e., workplace causation. The Department recognizes that establishment of this presumption does not assure that workers with CBD or beryllium sensitization will receive workers' compensation benefits, whether for disability or medical expenses. Benefit determinations are governed by State or Federal law, rather than DOE's instructions, and each jurisdiction has different standards for making such awards. For example, in some States, benefits are awarded only where a worker is receiving reasonable and necessary medical treatment or where a worker has manifested symptoms that impair a major life function that results in lost wages due to diminished work ability; those States' programs do not generally cover medical monitoring or other preventative procedures prior to the diagnosis and treatment of CBD. Also, under the Federal system, the Department of Labor's Office of Workers' Compensation Programs (OWCP) makes an independent determination of all issues, including work relatedness, regardless of the employing agency's position.

Workers have the ultimate responsibility for pursuing their own claims under the workers' compensation system. The Department is committed to working with its contractors to ensure that employees are given effective support in obtaining all available benefits that are due to them. In order to further facilitate the processing of claims, DOE field counsel and contractors are to make available to workers' compensation insurers and to the Federal OWCP the claimant records developed under the Beryllium Worker Surveillance Program. This availability is subject to obtaining the appropriate record releases from the claimant. It should help to assist the claims processors in determining, in a timely manner, the specific DOE contractor for whom the claimant worked when the likely injurious beryllium exposure occurred.

*It is a privilege for me to sign  
this, and to recognize those  
who have contributed to formulating  
this new approach.*

*Betsy*